

## Article - Insurance

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§15–1221.

(a) On or before the last day of February of each year, the Board shall determine and report to the Commissioner the net loss of the Pool for the previous calendar year, including administrative expenses and incurred losses for the year, taking into account investment income and other appropriate gains and losses.

(b) Any net loss for the year shall be recouped by assessments imposed on reinsuring carriers.

(c) (1) As part of the plan of operation, the Board shall establish a formula to make assessments against reinsuring carriers.

(2) The assessment formula shall be based on:

(i) each reinsuring carrier's share of the total premiums earned in the preceding calendar year from health benefit plans that are delivered or issued for delivery to small employers in the State by reinsuring carriers; and

(ii) each reinsuring carrier's share of the premiums earned in the preceding calendar year from newly issued health benefit plans that are delivered or issued for delivery during that calendar year to small employers in the State by reinsuring carriers.

(3) The assessment formula may not result in an assessment share for a reinsuring carrier that is less than 50% nor more than 150% of an amount that is based on the proportion of the reinsuring carrier's total premiums earned in the preceding calendar year from health benefit plans that are delivered or issued for delivery to small employers in the State to total premiums earned by all reinsuring carriers in the preceding calendar year from health benefit plans that are delivered or issued for delivery to small employers in the State.

(4) As appropriate and with the approval of the Commissioner, the Board may change the assessment formula established in accordance with this subsection.

(5) The Board may provide for assessment shares attributable to premiums from all health benefit plans and to premiums from newly issued health benefit plans to vary during a transition period.

(6) Subject to approval by the Commissioner, the Board shall make an adjustment to the assessment formula for reinsuring carriers that are approved health maintenance organizations and that are federally qualified under the Health Maintenance Organization Act of 1973 to the extent that restrictions are imposed on the health maintenance organizations that are not imposed on other carriers.

(7) Premiums and benefits paid by a reinsuring carrier that are less than an amount determined by the Board to justify the cost of collection may not be considered in determining assessments.

(d) (1) On or before the last day of February of each year, the Board shall determine and file with the Commissioner an estimate of the assessments needed to fund the losses incurred by the Pool in the previous calendar year.

(2) If the Board determines that the assessments needed to fund the losses incurred by the Pool in the previous calendar year will exceed 5% of the total premiums earned that year from health benefit plans that are delivered or issued for delivery in the State, the Board shall evaluate the operation of the Pool and report its findings to the Commissioner within 90 days after the end of the calendar year in which the losses were incurred.

(3) The evaluation required under paragraph (2) of this subsection shall include:

- (i) any recommendations for changes to the plan of operation;
- (ii) an estimate of future assessments;
- (iii) the administrative costs of the Pool;
- (iv) the appropriateness of the premiums charged;
- (v) the level of insurer retention under the Pool; and
- (vi) the costs of coverage for small employers.

(4) If the Board fails to file the report with the Commissioner within 90 days after the end of the applicable calendar year, the Commissioner may evaluate the operations of the Pool and implement amendments to the plan of operation that the Commissioner considers necessary to reduce future losses and assessments.

(e) If assessments exceed net losses of the Pool, the excess shall be held in an interest-bearing account and used by the Board to offset future losses, including reserves for incurred but not reported claims, or to reduce Pool premiums.

(f) The Board annually shall determine the assessment share of each reinsuring carrier based on annual statements and other reports that the Board considers necessary and that reinsuring carriers file with the Board.

(g) The plan of operation shall provide for imposition of an interest penalty for late payment of assessments.

(h) (1) (i) A reinsuring carrier may seek from the Commissioner a deferment from all or part of an assessment imposed by the Board.

(ii) The request for deferment shall be made in writing to the Commissioner within 15 days after receipt of the assessment notice.

(2) The Commissioner may defer all or part of the assessment of a reinsuring carrier if the Commissioner determines that payment of the assessment would place the reinsuring carrier in a financially impaired condition.

(3) (i) Any amount deferred shall be assessed against the other reinsuring carriers in a manner consistent with the basis for assessment set forth in this section.

(ii) The reinsuring carrier receiving the deferment remains liable to the Pool for the amount deferred and may not reinsure any individuals or groups in the Pool until it pays that amount.

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